

Appl. No. 10/580,909
Amendment dated August 7, 2009
Reply to Office Action of March 24, 2009

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawing includes a change to Figure 3 to include a step "S5" corresponding to "Changing Over Refrigerant Circuit" to a normal operation state, as discussed in pages 16-17 of the instant application. The attached replacement sheet, which includes Figure 3, replaces the original sheet that included Figure 3.

Attachment: one (1) replacement sheet

REMARKS

In the April 16, 2009 final Office Action, a Restriction Requirement was made and claims 5 and 6 were withdrawn from consideration as being directed to a non-elected invention. Also, claim 7 was rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

Claims 5-6 are being amended by the current Amendment. Also, the specification and drawings are being amended by the current Amendment, and new claims 11-12 are being added. Thus, claims 5-7, 11 and 12 are now pending, with claims 7 and 11 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the following comments.

New claims 11-12 correspond to previously presented claims 5-6 (withdrawn from consideration), but with the feature, i.e., the fifth step, allegedly directed to a non-elected embodiment removed from new claims 11-12. Thus, new claims 11-12 read on the elected embodiment identified in the Office Action.

Claims 5-6 have been amended to place these claims in dependent form, depending from new claims 11-12, respectively. Thus, the content of claims 5-6 as currently amended is identical to the content of claims 5-6 previously presented. Thus, Applicants respectfully request that the Restriction Requirement of the April 16, 2009 final Office Action as applied to claims 5-6 be withdrawn as explained below, or made final so Applicants may Petition the Restriction Requirement.

Election /Restrictions

On page 2 of the Office Action, the Office Action indicates that previously presented claims 5 and 6 (identical in content to currently amended claims 5-6) are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: "Claim 5 recites a fifth step of ***charging*** over a refrigerant circuit belongs to another new embodiment which is different from the embodiment of the claim 5 as it was originally filed." (Emphasis added) Thus, the Office Action indicates that claims 5 and 6 have been withdrawn from consideration as being non-elected invention. Applicants disagree

with the Office Action, and respectfully *traverse* this Restriction Requirement, as explained below. Moreover, Applicants respectfully request reconsideration of the Restriction Requirement and that the withdrawn claims 5 and 6 be rejoined in this application, as explained below.

Specifically, previously presented claim 5 requires “a fifth step of *changing* over a refrigerant circuit being composed of the existing refrigerant piping with the new heat source unit and the new user unit to normal operation state which has the oil collecting device attached thereto, the fifth step being executed after the fourth step.” In other words, previously presented claim 5 *does not* require an additional refrigerant *charging* step of another (new) embodiment as asserted in the Office Action. Rather, previously presented claim 5 requires an additional step of the embodiment of the invention originally claimed.

Specifically, see pages 16-17 of the instant application where the step of changing over a refrigerant circuit to a normal operation state after the step S4 is discussed with reference to the elected embodiment. Also, please note that Applicants have amended the specification and Figure 3 of the instant application to illustrate the Alleged non-elected step S5 is part of the embodiment elected by original presentation. Accordingly, reconsideration of the Restriction Requirement is respectfully requested, and withdrawal of this Restriction Requirement and rejoinder of claims 5 and 6 are respectfully requested.

If, upon further consideration, the Restriction Requirement is not withdrawn, Applicants respectfully request that the Restriction Requirement be made final so Applicants may Petition the Restriction Requirement.

Specification/Drawings

As mentioned above, Applicants have amended the specification/drawings (Figure 3) to indicate that the refrigerant circuit is changed over to the normal operation state in a step S5 after the step S4 as shown in Figure 3). These changes are fully supported by the original disclosure at pages 16-17, as also mentioned above. Thus, no new matter is entered by these changes and entry of these changes is respectfully requested.

Rejections - 35 U.S.C. § 102

On pages 2-4 of the Office Action, claim 7 stands rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Publication No. 2002-357377 (Unezaki et al.) and under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,806,329 (Taira et al.). In response, Applicants respectfully traverse the rejections as explained below.

Independent claims 11 and 7 positively require, *inter alia*,

new working refrigerant that serves as a cleaning agent comprising an HFC refrigerant containing at least 40 wt% of R32 but containing no R134a refrigerant and

a new heat source unit and a new user unit that are connected together by the existing refrigerant piping with a replaced working refrigerant disposed therein, the replaced working refrigerant being an HFC refrigerant containing at least 40 wt% of R32 that serves as a cleaning agent but contains no R134a refrigerant, respectively

Clearly, this structure is *not* disclosed or suggested by the Unezaki et al. publication or the Taira et al. patent.

In the Unezaki et al. publication, R407C is used as a washing agent (instead of the HCFC 141b and HCFC 225) and as a replacement refrigerant. R407C includes 23 wt% R32, 25 wt% R125 and 52 wt% R134a. R407C has less than 40 wt% R32 and a significant wt% (a majority) of R134a. See paragraphs [0012]-[0017] and [0044]-0048]. The Unezaki et al. publication makes no mention of using the ***HFC refrigerant containing at least 40 wt% of R32 but containing no R134a*** as claimed. It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, the Unezaki et al. publication cannot disclose or suggest ***HFC refrigerant containing at least 40 wt% of R32 but containing no R134a*** as well as the other features of independent claims 11 and 7. Accordingly, withdrawal of this rejection based on the Unezaki et al. publication is respectfully requested.

In the Taira et al. patent, no particular washing liquid and/or new refrigerant are disclosed whatsoever. Rather, this reference discusses many details of the system such as operating temperatures and pressures without reference to any particular washing/replacement refrigerant. In fact, the Office Action appears to acknowledge that

HFC refrigerant containing at least 40 wt% of R32 but containing no R134a, as claimed, is not disclosed or suggested the Taira et al. patent or the Unezaki et al. publication.

Specifically, the Office Action indicates at page 4 that “Taira et al.’s system is capable of using the same refrigerant with the same composition because existing refrigerant system containing Chlorine or Ozone depletion refrigerant can be replaced by the friendly environmental refrigerant as mentioned above and it is a well known feature in the art.”

However, it is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. In this case, the Taira et al. patent, as explained above and as acknowledged in the Office Action, cannot disclose or suggest ***HFC refrigerant containing at least 40 wt% of R32 but containing no R134a*** as well as the other features of independent claims 11 and 7.

Accordingly, withdrawal of this rejection based on the Taira et al. patent is respectfully requested.

Additionally, the above references lack the following elements of the claims.

Specifically, JP2002-357377 (the Unezaki et al. publication) does not disclose or suggest the structure “the oil collecting device being disposed in the new heat source unit”. Accordingly, the Unezaki et al. publication cannot anticipate the claims.

Moreover, U.S. Patent No. 5,806,329 (the Taira et al. patent) does not disclose or suggest the structure “existing refrigerant piping that was used with an existing air conditioner being composed of an old heat source unit and an old user unit and contains residue of an existing mineral-oil-based refrigerant oil, the existing refrigerant piping being connected the old heat source unit and the old user unit, the existing refrigerant piping being reused as is when updating the air conditioner is complete”. Accordingly, the Taira et al. patent cannot anticipate the claims.

Accordingly, withdrawal of these rejections is respectfully requested.

New Claims

Applicants have added new claims 11-12 by the current Amendment. New claims 11-12 correspond to previously presented claims 5-6 (withdrawn from consideration), but with the feature, i.e., the fifth step, allegedly directed to a non-elected embodiment removed from new claims 11-12. Thus, new claims 11-12 read on the elected embodiment identified in the

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Office Action. New claims 11-12 are believed to be allowable for the reasons discussed above with respect to independent claim 11 in response to the rejection of claim 7 under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Publication No. 2002-357377 (Unezaki et al.) and under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,806,329 (Taira et al.).

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In view of the foregoing comments, Applicants respectfully assert that claims 5-7 and 11-12 are in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. If there are any questions regarding Amendment, please feel free to contact the undersigned.

Respectfully submitted,

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